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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 KIRK WILLIAMS,

10 Petitioner,

11 Case No. C18-1012-RSL-MLP

12 v.

13 JAMES KEY,

14 Respondent.

15 ORDER GRANTING PETITIONER'S
16 MOTION TO USE FIRST HABEAS
17 PETITION AS MEMORANDUM OF
18 AUTHORITY

19 This is a federal habeas action proceeding under 28 U.S.C. § 2254. On July 9, 2018,
20 Petitioner submitted to the Court for filing materials indicating his intent pursue federal habeas
21 relief under § 2254. (*See* Dkt. ## 1, 5.) However, Petitioner did not submit an actual petition but
22 instead submitted what he identified as a brief in support of a petition for writ of habeas corpus
23 brought under § 2254 and a series of exhibits. (*See id.*) Petitioner subsequently submitted an
amended petition on the Court's standard form. (Dkt. # 10.) Petitioner included with his
amended petition a number of exhibits, though not as many as he had included in his original
submission. (Dkt. # 10-1.) Petitioner did not re-submit his brief in support of his petition.

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1 Petitioner's amended petition was served on Respondent (dkt. # 12), and Respondent
2 filed an answer to the amended petition in December 2018 (dkt. # 16). The Court is now
3 awaiting Petitioner's response to Respondent's answer to his amended petition. Petitioner has
4 been granted two rather lengthy extensions of time to accomplish this task. Most recently, on
5 April 1, 2019, this Court issued an Order denying Petitioner's request for appointment of counsel
6 to assist him in filing a response but granting him an extension of time until June 10, 2019 to file
7 his brief. (Dkt. # 31.)

8 Petitioner has now submitted a motion in which he appears to ask that the Court consider
9 his original habeas materials as his response to Respondent's answer. (Dkt. # 34.) Respondent
10 has not opposed this motion, and the motion is now ripe for review. As it does not appear it
11 would prejudice Respondent in any way if the Court were to construe Petitioner's original brief
12 in support of his petition, and the included exhibits, as Petitioner's response to Respondent's
13 answer, the Court will grant Petitioner's request.

14 Accordingly, the Court hereby ORDERS as follows:

15 (1) Petitioner's motion to use his first habeas petition as his memorandum of
16 authority (dkt. # 34) is GRANTED. The Court will construe the materials posted on the docket as
17 Petitioner's original petition (dkt. ## 5, 5-1) as Petitioner's response to Respondent's answer and
18 will consider those materials in determining the appropriate disposition of Petitioner's amended
19 petition.

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(2) The Clerk shall direct copies of this Order to Petitioner, to counsel for Respondent, and to the Honorable Robert S. Lasnik.

DATED this 28th day of May, 2019.

M. J. Ferguson

MICHELLE L. PETERSON
United States Magistrate Judge

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